

U.S. Patent Application Serial No. 09/844,477  
Reply to Office Action dated May 2, 2006

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REMARKS

Applicant wishes to thank the Examiner for the Examiner's careful review of the application and the indication of allowable subject matter. Applicant has amended claims 1, 8, 15, 29, 36, and 43, and has added new claims 73-90 above. Such amendments and new claims are fully supported by the specification, drawings and claims as originally filed. No new matter has been added. Claims 2-7, 9-14, 16-28, 30-35, 37-42, 44-56, and 60-72 have been cancelled without prejudice or disclaimer. Therefore, claims 1, 8, 15, 29, 36, 43, 57, 58, 59, and 73-90 remain pending in this application.

Rejections Under 35 U.S.C. §112

Claims 1-56 and 65-72 were rejected under 35 U.S.C. §112 for reasons relating to clarity and/or antecedent basis with respect to the phrases "the large buffer limit" and "an upper bound which approaches a straight line." The independent claims 1, 8, 15, 29, 36, and 43 have been amended to remove these offending phrases. The remaining dependent claims have been cancelled above, thereby rendering the rejection moot with regard to those claims. Applicant respectfully requests reconsideration and withdrawal of these rejections, in view of the aforementioned amendments to the independent claims.

Rejection of Independent Claims 1, 8, 15, 22, 29, 36, 43 and 50 Under 35 U.S.C. §102

Independent claims 1, 8, 15, 22, 29, 36, 43 and 50 presently stand rejected under 35 U.S.C. §102, as being anticipated by Hataro. Applicant respectfully traverses this rejection.

As a preliminary matter, it is noted that claim 50 has been cancelled above, thereby rendering the rejection moot with regard to that claim.

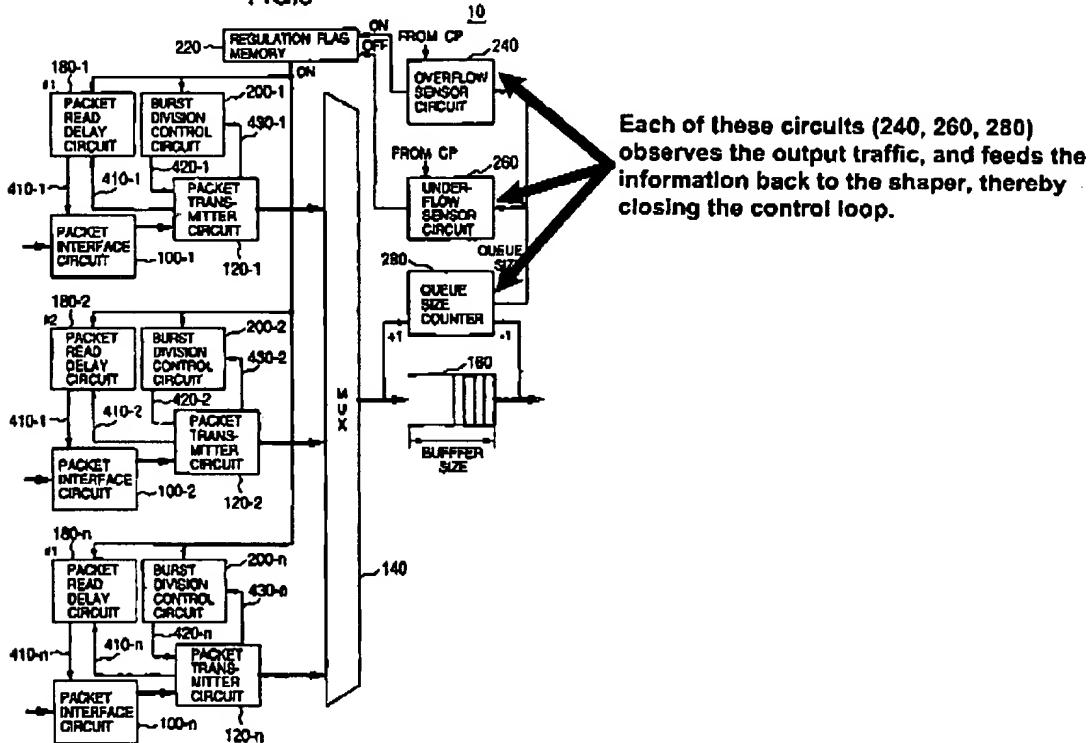
With regard to the remaining claims, such claims relate generally to traffic shapers and methods employed thereby. Applicant respectfully notes that, broadly speaking, there exist two classes of traffic shapers: open loop and closed loop. The claims relate to an open loop traffic shaper. Hataro, on the other hand, discloses a closed loop traffic shaper, and therefore fails to anticipate the claims herein for a number of reasons. For the sake of simplicity, Applicant's arguments are directed to a single limitation herein, but reserves the right to make additional arguments in the future.

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Applicant points out that an open loop traffic shaper operates without observing the output traffic, itself. Instead, variables are specified, and the traffic shaper operates based upon the specified variables. For example, each of the aforementioned independent claims recites the act of "specifying . . . the mean rate of the output packet traffic." Once specified, the traffic shaper operates based upon the specified value, and does so without observation of the output traffic.

As mentioned previously, Hataro discloses a closed loop traffic shaper. Hataro observes the output traffic, and adjusts various operational parameters of the traffic shaper in view of the observed output traffic. That this is the case may be verified by a review of Figure 8 in Hataro (which is reproduced and annotated herein for the convenience of the Examiner).

FIG.8



As can be seen from Figure 8, the traffic shaper of Hataro includes circuits (240, 260, and 280) that observe the output traffic and feed the information back to the shaper, in order to

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modify operational parameters of the shaper (e.g., the extent of the packet read delay imposed by circuits 180-n).

The import of the foregoing is that, to the extent that a value such as mean rate of output packet traffic is used by the traffic shaper of Hataro, such a value would be an observed value—not a specified value, as recited by Applicant's independent claims.

Applicant further notes that "mean rate of output packet traffic" is not used by the traffic shaper of Hataro at all -- such that Hataro does not anticipate Applicant's independent claims. To the extent that such a value is discernible in view of the information obtained by circuits 240, 260, and/or 280 (a point not conceded by Applicant), such a value is observed, not specified, constituting yet another reason that Hataro does not anticipate Applicant's claims.

Still further, there can exist no motivation to modify Hataro to include specification of the mean output rate of packet traffic, because Hataro teaches a closed loop shaper, and such a specification is useful only in the context of an open loop shaper. Accordingly, there can be no motivation to change the principle of operation of the shaper of Hataro from closed loop to open loop. See MPEP §2143.02 ("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.")

For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of the aforementioned independent claims under 35 U.S.C. §102.

### §103 Rejection

The Examiner rejected claims 2-4, 7, 9-11, 14, 16-18, 21, 23-25, 28, 30-32, 35, 37-39, 42, 44-46, 49, 51-53, and 56 under §103 as being obvious over Hatono et al. in view of Boda et al. Applicant traverses this rejection, but believes that in view of the cancellation of the claims above that this rejection is rendered moot. It is also believed that all of the dependent claims pending in this application are allowable at least by virtue of the dependence upon the independent claims.

### Conclusion

It is respectfully submitted that each of the presently pending claims is in condition for allowance and notification to that effect is requested. The Examiner is invited to contact

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Applicants' representative at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Although certain arguments regarding patentability are set forth herein, there may be other arguments and reasons why the claimed invention is patentably distinct. Applicants reserve the right to raise such arguments in the future.

Respectfully submitted,

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